

LETTERS

Subject: Legal right of a chiropractor to practice obstetrics.*

DEPARTMENT OF PROFESSIONAL AND VOCATIONAL
STANDARDS

BOARD OF MEDICAL EXAMINERS
STATE OF CALIFORNIA

9-20-39

420 State Office Building
Sacramento, California
September 23, 1939

California and Western Medicine
George H. Kress, M. D., Editor

Addressed

Attached hereto please find copy of California Attorney-General's Opinion No. NS1962, dated September 14, 1939, rendered to Honorable J. M. McPherson, District Attorney of Butte County, which closes with the following sentence: "Pursuant to such decision, it would appear that a chiropractor may not engage in the practice of obstetrics."

We thought the enclosure might be of interest to readers of CALIFORNIA AND WESTERN MEDICINE.

Very truly yours,

C. B. PINKHAM, M. D.,
Secretary-Treasurer.

✓ ✓ ✓

(COPY)

San Francisco, September 14, 1939.

Hon. J. M. McPherson
District Attorney of Butte County
I. O. O. F. Building
Chico, California
Dear Sir:

In your communication of September 2, you indicate that a complaint has been requested against a chiropractor in your county on the ground that the latter is engaged in the practice of medicine without possessing a license so to do.

Your statement indicates that such chiropractor is charged with having openly advertised that he is an obstetrician, as well as having engaged in the performance of obstetrics. From your statement it appears that the chiropractor claims to have taken a course in obstetrics in his chiropractic training and that, pursuant to Section 7 of the Chiropractic Act, he is legally entitled to engage in the delivery of children. You ask the views of this office with respect to the correctness of his contention.

In requesting such views, you indicate that the chiropractor under discussion claims he is entitled to "treat diseases, injuries, deformities, or other physical or mental conditions without the use of drugs or what are known as medical preparations, and without in any manner severing or penetrating any of the tissues of human beings, except the severing of the umbilical cord."

In reply, please be advised that before the enactment of the Chiropractic Initiative Act in 1922, the possessor of a drugless practitioner's certificate was authorized to do all of those things immediately above enumerated. This would, of course, include obstetrics. The Chiropractic Initiative Act was adopted in 1922. Section 7 thereof then read and now reads as follows:

One form of certificate shall be issued by the Board of Chiropractic Examiners, which said certificate shall be designated "license to practice chiropractic," which license shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, sur-

gery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

The language "to practice chiropractic" has been construed to mean that the art or science must first be chiropractic before a licentiate may practice the same, and must not constitute the practice of medicine, surgery, osteopathy, dentistry or optometry, or include the use of any drug or medicine in 1922 or thereafter included in materia medica.

A recent case, entitled *People of the State of California vs. Paul C. Fowler*, Appellate Department, Superior Court, County of Los Angeles, State of California, 3 Cal. App. Dec. Supp. 41, said in part as follows:

Examination of the argument in favor of the Chiropractic Act, made by those advocating it and officially circulated to the voters at the election in 1922, at which time the act was submitted and adopted as an initiative measure, shows that the principal matter complained of was unfair administration of the Medical Practice Act against chiropractors by the board in charge. No objection was made to the terms of that act itself, or the scope of the practice permitted by it to drugless practitioners, and the voters were assured by this argument that the proposed chiropractic act "prohibits the use of drugs, surgery or the practice of obstetrics by chiropractors." This argument, while not conclusive, may be considered as an aid in the interpretation of the statute. *Beneficial Loan Soc. Ltd. vs. Haight* (1932), 215 Cal. 506, 515.

That case cites many authorities to the effect that chiropractic is

"a system of healing that treats disease by manipulation of the spinal column."

Pursuant to such decision, it would appear that a chiropractor may not engage in the practice of obstetrics.†

Very truly yours,

EARL WARREN, Attorney-General.
By Lionel Browne, Deputy.

Subject: Articles on health insurance in Australia.*†

(COPY)

San Francisco, August 22, 1939.

To the Editor:—To correct a statement in CALIFORNIA AND WESTERN MEDICINE, that Australia had abandoned health insurance, will you please read this enclosed letter [of June 6] and see if you do not think, in all fairness, that it should be published in the JOURNAL. I have written the Attorney-General and have several government publications which are on file in the Lane Library, bearing out this statement.

909 Hyde Street.

Sincerely yours,

✓ ✓ ✓
PHILIP KING BROWN.

(COPY)

AUSTRALIAN NATIONAL TRAVEL ASSOCIATION
A NONPROFIT COMMUNITY ORGANIZATION

U. S. A. Office: 510 West Sixth Street
Los Angeles, California.
June 6, 1939

Dr. Philip King Brown
Medical Building
909 Hyde Street
San Francisco, California

Dear Doctor Brown:

The press report that Australia has abandoned its health insurance plan is decidedly misleading without a full expla-

† Editor's Note.—Italics our own.

* Refers to items in a letter from the Australian correspondent in the *Journal of the American Medical Association*, July 8, 1939, and reprinted on page 119 of the August, 1939 issue of CALIFORNIA AND WESTERN MEDICINE.

† For additional information concerning this topic, see editorial comment in the *Journal of the American Medical Association*, September 23, 1939, on page 1231.

* For editorial comment in this issue, see page 219. For text of proposed chiropractic initiative, see September issue, on page 211.

nation of the facts. National health insurance was a part of the platform of the Commonwealth (nonlabor) Government led by the late Prime Minister, Joseph Lyons. A bill was brought down, debated, and all the necessary organization planned. Then came grave threats of war, and the necessity arose of spending up to the limit of Australia's resources on war preparedness. Under the circumstances, the Government decided that national insurance must be delayed, but certainly not abandoned.

Because of his opposition to delay in establishing national insurance, the Hon. R. G. Menzies, Attorney-General, resigned from the Lyons Government. On the death of Mr. Lyons, Mr. Menzies was elected leader of his party and became Prime Minister.

As the new Prime Minister has staked his political future on establishing national health insurance, it is safe to predict that if he retains his office he will lose little time in bringing the system into operation.

Herewith I am sending you copy of a speech in the Federal Senate by the leader of the Lyons Government in that Chamber (Senator McLachlan), and a résumé of a speech by the Commonwealth Treasurer in the House of Representatives.

Should you need further material, I suggest you write to the Hon. R. G. Menzies, Prime Minister, Canberra, Australia.

Sincerely yours,

(Signed): A. H. O'CONNOR,
Manager.

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COMMENT

(Note: Doctor Brown's letter and enclosure were sent to Dr. Morris Fishbein, Editor of *The Journal of the American Medical Association*. Doctor Fishbein's reply follows.)

(COPY)

THE JOURNAL OF THE
AMERICAN MEDICAL ASSOCIATION

Chicago, August 29, 1939.

Dr. George H. Kress
San Francisco, California
My dear George:

All of the evidence which we can collect from various sources indicates that, while the Health Insurance Act was passed in Australia, they have never been able to enforce the Act. If you will look at the *Medical Journal of Australia* for March 11, 1939, you will find a letter from a physician in which he says, "Happily, it appears that national insurance is done."

The battle for and against health insurance in Australia well-nigh disrupted the profession, and it is likely that there will be changes in their constitution in relationship to the handling of such matters.

In the meantime, we have plenty of evidence that everything that our correspondent has written on this subject is a fact. It is quite possible that the simple statement that Australia has abandoned its health insurance plan is misleading unless there is also a full explanation, but the fact remains that that statement is, nevertheless, true. It is also quite possible that some time in the future attempts will be made to make the law effective, and it is possible also that someone may in the future attempt to pass another law. It is still the truth that in Australia for the present health insurance is finished.

Sincerely yours,

(Signed): MORRIS FISHBEIN.

(COPY)

AMERICAN MEDICAL ASSOCIATION

Chicago, September 5, 1939.

Dr. George H. Kress
Secretary, California Medical Association
San Francisco, California

Dear Doctor Kress:

I have before me a memorandum prepared by one of the associate editors of *The Journal of the American Medical Association*. The following paragraph is taken from that memorandum:

"In regard to the correspondence from Doctor Kress of California: The general tone of the letters of the Australian correspondent has indicated a stubborn and persistent opposition to health insurance in that country. This opposition to health insurance has come, the correspondent says, not only from the medical profession, but also from a strong federal labor opposition; from some employers who are apprehensive about the extra cost they will have to carry as contributors to the scheme on behalf of their employees; from a body of rural opinion expressing the grievances of small farmers who will have to pay contributions for persons they employ but who themselves will not be eligible to become insured, and finally, from the existing friendly societies. This is indicated in his letter in *The Journal* for January 14, 1939, page 164."

535 North Dearborn Street.

Very sincerely yours,
OLIN WEST.

Subject: Nursing Practice Act of California (1939).*

On September 19, 1939, the Bureau of Registration of Nurses, which has been under the supervision of the Department of Public Health of the State of California, was transferred to the California Department of Professional and Vocational Standards. The following letter should be of interest:

(COPY)

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH

Sacramento, August 31, 1939.

NOTICE OF NURSING PRACTICE ACT OF CALIFORNIA

A copy of the Nursing Practice Act of California, which was signed by the Governor on July 17 and becomes effective on September 19, is herewith enclosed.

The personnel of the Bureau of Registration of Nurses is being transferred to the Department of Professional and Vocational Standards. The titles of all positions will remain the same except that of Chief of the Bureau of Registration of Nurses, which will become Executive Secretary of the Board of Examiners.

The three offices will be maintained. Their addresses will be:

Board of Nurse Examiners, Department of Professional and Vocational Standards—
Sacramento (main office).
515 Van Ness Avenue, San Francisco.
906 State Building, Los Angeles.

BUREAU OF REGISTRATION OF NURSES.

Subject: Broken intra-uterine ring—Autopsy.

DEPARTMENT OF PUBLIC HEALTH
SAN LUIS OBISPO COUNTY

September 13, 1939.

To the Editor:—Last week I performed an autopsy on a woman, thirty-three years old, who died from an acute

* For copy of the law, write to California State Printing Office, George H. Moore, State Printer, Sacramento.
The "Trained Attendant Act" (enacted May 5, 1919; Statutes of 1919, page 242) providing for schools for "trained attendants," remains under the jurisdiction of the California State Board of Public Health. For copy of the Act, address California State Board of Public Health, State Building, San Francisco.